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Supreme Court, U.S.

~~FILED~~

No. 88-1640

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JOSEPH F. SPANIOL, JR.
CLERK

**IN THE
SUPREME COURT OF THE
UNITED STATES
OCTOBER TERM, 1989**

**MICHIGAN CITIZENS FOR AN INDEPENDENT PRESS, *et al.*,
Petitioners,**

v.

**RICHARD THORNBURGH,
UNITED STATES ATTORNEY GENERAL, *et al.*,
Respondents.**

**On Writ of Certiorari to the
United States Court of Appeals
for the District of Columbia**

**BRIEF AMICI CURIAE OF
JAMES BLANCHARD, JOHN ENGLER, ART MILLER,
LEWIS N. DODAK, PAUL HILLEGONDS, ED McNAMARA,
ERMA HENDERSON, DONALD W. RIEGLE, JR., CARL LEVIN,
JOHN D. DINGELL, DAVID E. BONIOR, ROBERT W. DAVIS,
DENNIS M. HERTEL, DALE E. KILDEE, SANDER M. LEVIN,
BILL SCHUETTE, BOB TRAXLER, GUY VANDER JAGT
and HOWARD WOLPE
IN SUPPORT OF RESPONDENTS**

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*** Counsel of Record**

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INTEREST OF AMICI CURIAE

This brief is submitted by a group of elected national, state and local government officials from the State of Michigan. Consents of the parties to the filing of this brief have been filed with the Clerk. Together, the amici represent a constituency encom-

passing the entire State of Michigan, as well as particular political subdivisions of Detroit, Wayne County and Southeastern Michigan. The amici and their constituency share an interest in the preservation of competitive and diverse news gathering organizations and editorial voices in their community. The amici are more fully described below:

James Blanchard is the Governor of the State of Michigan.

John Engler is the Majority Leader of the Michigan State Senate.

Art Miller is the Minority Leader of the Michigan State Senate.

Lewis N. Dodak is the Speaker of the Michigan House of Representatives.

Paul Hillegonds is the Minority Leader of the Michigan House of Representatives.

Ed McNamara is the County Executive for Wayne County, Michigan.

Erma Henderson is President of the Detroit City Council.

Donald W. Riegle, Jr., is a United States Senator from Michigan.

Carl Levin is a United States Senator from Michigan.

John D. Dingell is a United States Representative from Michigan and the Senior Member of the Michigan Congressional Delegation.

David E. Bonior is a United States Representative from Michigan.

Robert W. Davis is a United States Representative from Michigan.

Dennis M. Hertel is a United States Representative from Michigan.

Dale E. Kildee is a United States Representative from Michigan.

Sander M. Levin is a United States Representative from Michigan.

Bill Schuette is a United States Representative from Michigan.

Bob Traxler is a United States Representative from Michigan.

Guy Vander Jagt is a United States Representative from Michigan.

Howard Wolpe is a United States Representative from Michigan.

ARGUMENT

As elected officials in Detroit and Michigan, we support the approval of the joint operating arrangement between the Detroit Free Press and the Detroit News and urge the Supreme Court to affirm the decision of the U.S. Circuit Court of Appeals. The JOA represents the only means available, we believe, for maintaining two strong, independent voices in the Detroit community. Because both Detroit newspapers circulate throughout much of the state, App. 54a, their role is important for all of Michigan. The death of the Free Press would mean that the quality and breadth of public debate in the community would be greatly diminished.

We are persuaded that, without the JOA, the Free Press will close. For a decade now, we have watched the Free Press struggle against mounting, multi-million dollar deficits. The newspaper, we believe, meets the law's description of a "failing newspaper." 15 U.S.C. §1802(5). Its well-documented losses, resulting from the decades-long competition with the Detroit News, cannot be sustained indefinitely. We have witnessed significant infusions of capital to provide improved facilities and to cover losses without significant change in the Free Press's fortunes. App. 76a-77e; JA

566-573. We believe Knight-Ridder Inc., the parent company of the Free Press, when it says it will close the newspaper in the absence of a joint operating arrangement. (Applicants' Exceptions to the Recommended Decision of the Administrative Law Judge at 7-8; 1988 Annual Report at 16.)

The community as a whole would be diminished by the loss of the Free Press. The News and the Free Press are Michigan's only statewide newspapers. They frequently disagree with each other and with us. The clash of editorial philosophies and diversity of viewpoints provided by the two papers is important to public debate in Michigan. Out of the spirited discussion of policy questions, the citizens of Detroit and of Michigan are better able to inform themselves and make up their own minds. What is important to us and to the community is to have the diversity of voices. While we frequently disagree with one and sometimes both of the Detroit newspapers, we recognize that our citizens are better informed and better served by having alternative voices available to them.

Congress provided for the possibility of joint operating arrangements precisely for the reasons this JOA is important to Detroit and Michigan: to preserve editorial competition and diversity even where the harsh realities of newspaper economics dictate against the survival of two totally free-standing business entities. S. Rep. No. 535, 91st Cong., 1st Sess. 4 (1968). We believe the Detroit JOA provides the only assurance we can have that this community, so accustomed to strong and open debate and to intense newspaper competition, will continue to have these two independent editorial voices and two competent sources of information and ideas.

Therefore, we urge that you uphold the finding of the Attorney General, affirmed by the district court and the USCA and permit the Detroit JOA to take effect.

Respectfully submitted,

DICKINSON, WRIGHT, MOON, VAN DUSEN
& FREEMAN

By:

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